

JAN 22 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ALFREDO SOTO,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-72285

Agency No. A70-923-719

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted January 14, 2008^{**}

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Alfredo Soto, a native and citizen of Mexico, petitions for review of the order of the Board of Immigration Appeals ("BIA") that adopted and affirmed the Immigration Judge's ("IJ") denial of his application for asylum and withholding of

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

removal. We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *see Li v. Ashcroft*, 378 F.3d 959, 962 (9th Cir. 2004), and we deny the petition for review.

Substantial evidence supports the IJ's adverse credibility determination based upon Soto's demeanor while testifying. The IJ identified Soto's hesitation and evasiveness with sufficient particularity to support the demeanor finding. *See Arulampalam v. Ashcroft*, 353 F.3d 679, 686 (9th Cir. 2003). The demeanor finding also augmented the IJ's findings on inconsistencies between Soto's testimony and asylum application regarding the threats he received. *See Singh-Kaur v. INS*, 183 F.3d 1147, 1151 (9th Cir. 1999) (affirming an adverse credibility finding where demeanor, inconsistent testimony, and implausible explanations all supported the IJ's credibility determination). Further, the IJ properly concluded that evasive and inconsistent testimony about subsequent detentions at the border undermined his overall credibility. *See Kaur v. Gonzales*, 418 F.3d 1061, 1067 (9th Cir. 2005). Accordingly, substantial evidence supports the IJ's determination that Soto failed to establish eligibility for asylum. *See Li*, 378 F.3d at 963.

Because Soto failed to meet his burden for asylum, he necessarily did not satisfy the more stringent standard for withholding of removal. *See Alvarez-Santos v. INS*, 332 F.3d 1245, 1255 (9th Cir. 2003).

PETITION DENIED.